

**HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE G.V.SEETHAPATHY**

WRIT APPEAL NO.552 OF 2006

Between:

G.Rosaiah

. . .Appellant

AND

The Chief Commissioner of Land
Administration, A.P., Hyderabad,
and others

. . .Respondents

Counsel for the appellant : Smt. K.Sesharajyam

Counsel for the respondents : None

Dated: 22nd June, 2006

: JUDGMENT :

PER G.S.SINGHVI, CJ

This appeal is directed against order dated 24.02.2006 passed by the learned Single Judge in W.P.No.3595 of 2005 whereby he refused to quash order dated 30.09.2005 passed by Joint Collector, Ongole, Prakasam, cancelling the assignment of land measuring Acs.4.45 cents in Survey No.206/1 of Hajipuram Village, Hanumanthapadu Mandal, Prakasam District made in favour of the appellant, but restored the earlier assignment of Acs.3.56 cents of land in Survey No.251/B.

It is borne out from the record that in response to the notice issued by the Joint Collector proposing cancellation of assignment of land comprised in Survey No.206/1, the appellant had claimed that land measuring Acs.3.36 cents comprised in Survey No.251/B had not been assigned to him and the application, if any, made for assignment of that land was benami. The Joint Collector did not agree with the appellant and set aside the assignment of land comprised in Survey No.206/1 by observing that in the face of the earlier assignment, the appellant could not have applied for assignment of another piece of land. The appeal preferred by the appellant against order of cancellation was dismissed by the appellate authority by recording the following observations:

“ As could be seen from the records Sri Gona Rosaiah the appellant herein was first assigned land in Sy.No.251/B Ac.3.56. Subsequently, he was assigned the land in Sy.No.206/1 measuring an extent of Acs.4.45 cents. He has suppressed the facts and misrepresented the facts before the Joint collector, Prakasam, pleading that he has no land except the land in Sy.No.206/1. The

land in Sy.No.206/1 is just abetting to the residential houses and is being used for communal purpose, and useful for future house site needs. The elders of the Hajipuram (v) and Harijans of the said colony have put several representations with a request to cancel the assignment patta in Sy.No.206/1 made to the appellant herein as he objected and not permitted the villagers to enter the land on the strength of the D.K. patta and creating much troubles to them. The R.D.O., Kandukuru represented that the land in question is very useful for future needs of Govt. as it has much house site potentially and it should be used for weaker section housing purpose only. In the circumstances, the Joint Collector, Prakasam has rightly cancelled the assignment patta granted in Sy.No.206/1 for Acs.4.45 cents and directed the R.D.O., Kandukur to get the above land entered in P.O.B. The Joint Collector also restored the assignment patta granted earlier to the appellant in Sy.No.251/B for Acs.3.56 cents. Therefore, I see no reason to interfere with the orders of the Joint Collector, Prakasam. The appeal is dismissed accordingly.”

In the writ petition filed by him, the appellant re-iterated that the transaction involving assignment of land comprised in Survey No.251/B was benami. The learned Single Judge did not find any merit in this plea and dismissed the writ petition.

On the last date of hearing, we had requested the learned Government Pleader to summon the records relating to the assignment of land comprised in Survey No.251/B measuring Acs.3.56 cents.

Learned Government Pleader for Assignment has produced the record, perusal of which reveals that land comprised in Survey No.251/B measuring Acs.3.56 cents had, in fact, been assigned to the appellant on the basis of an application made by him. The record produced by the learned Government Pleader was shown to the counsel for the appellant, who could not specifically deny the fact that her client had applied for assignment of land in Survey No.251/B. It is

thus clear that the appellant's assertion that the earlier assignment made in his name was benami is false.

In view of the above, we would have dismissed the appeal with costs, but learned counsel for the appellant has successfully averted that consequence by making a request for permission to her client to withdraw the appeal.

In the facts and circumstances of the case, we deem it proper to accept the request of the learned counsel and dismiss the appeal as withdrawn. Ordered accordingly.

G.S.SINGHVI, CJ

G.V.SEETHAPATHY, J

Date: 22.06.2006

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